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March 21, 2023

By ECF

The Honorable Laura Taylor Swain
United States District Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Noel, et al. v. City of New York, 1:15-CV-05236 (LTS)(KHP)

Your Honor:

I am an Assistant Corporation Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for defendant the City of New York in the above-referenced matter. I write in response to Plaintiffs' March 20, 2023 letter regarding HUD's 2023 Final Disparate Impact Rule (ECF 966). The implication of Plaintiffs' letter is that the 2023 Rule changes the applicable standard. However, as Plaintiffs acknowledge, the 2023 Rule is identical to the 2013 Rule, which both parties addressed in their extensive briefing. Moreover, neither party asserted that the 2020 Rule, which had been stayed at the time of the briefing, was the applicable standard.

To the extent Plaintiffs seek to persuade this Court that HUD's preamble to the 2023 Rule supports their interpretations of the applicable standard (or is contrary to the City's position), it is inappropriate to make such new arguments after the motions have been fully submitted. Nevertheless, Plaintiffs point to nothing in the preamble that is in conflict with the positions taken by either party in the briefing. As the City noted in its briefing, its arguments are based upon the applicable case law, and are also consistent with the standards and burden shifting set forth in the 2013 Rule. However, in the event that the Court raises concerns that the 2023 Rule and preamble are inconsistent with the position taken by the City, the City will readily address such concerns with a more substantive response.

Respectfully,

Melanie V. Sadok

Melanie V. Sadok
Assistant Corporation Counsel

cc: Attorneys for Plaintiffs (via ECF)